UNITED
NATIONS

A

General Assembly

Distr.
LIMITED

A/AC.243/1994/L.4
14 April 1994

ORIGINAL: ENGLISH

AD HOC INTERGOVERNMENTAL WORKING GROUP
OF EXPERTS ESTABLISHED PURSUANT TO
GENERAL ASSEMBLY RESOLUTION 48/218
First session
11-15 April 1994

DRAFT REPORT OF THE AD HOC INTERGOVERNMENTAL WORKING GROUP OF EXPERTS ESTABLISHED PURSUANT TO GENERAL ASSEMBLY RESOLUTION 48/218 ON THE WORK OF ITS FIRST SESSION

(New York, 11-15 April 1994)

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I. INTRODUCTION

1. The first session of the Ad Hoc Intergovernmental Working Group of Experts established pursuant to General Assembly resolution 48/218 of 23 December 1993 was held at United Nations Headquarters from 11 to 15 April 1994.

II. ORGANIZATIONAL MATTERS

A. Opening of the session

2. The session was opened by the President of the forty-eighth session of the General Assembly. He welcomed all the participants and recalled the circumstances under which the General Assembly had decided to establish the Working Group. He noted that the Assembly had been considering ways and means of improving the efficiency of the Organization, including how to deal with cases of fraud and presumptive fraud. He recalled that, at the forty-eighth session, the question of the adequacy of the judicial mechanism in existence for the Organization to deal with cases of fraud had been raised by the Minister for Foreign Affairs of France. The President recalled that, following discussions in the Fifth Committee, it had been unanimously agreed to establish an ad hoc intergovernmental working group of experts in the legal and financial fields to review the matter, with a view to determining whether a new jurisdictional and procedural mechanism would be warranted, or whether the situation required an extension of the mandates and an improvement of the functioning of existing jurisdictional and procedural mechanisms.

3. The President acknowledged that the task before the Ad Hoc Working Group was a difficult one. However, he was confident that given the vast experience and expertise of the participants they would overcome the difficulties. He wished the Working Group success in its work.

B. Attendance

4. The meeting was attended by experts from 24 Member States. The list of participants is contained in annex I [to be included in the final report].

C. Election of officers

5. At its first meeting, on 11 April, the Working Group elected by acclamation Mr. Mame Balla Sy (Senegal) as its Chairman. The Chairman thanked the Working Group for the confidence placed in him, and observed that the subject before the Working Group was a very important and complex one. He however expressed his confidence that through their joint endeavours they would arrive at a successful conclusion. He was particularly encouraged by the vast expertise of the members of the Working Group.

6. Three Vice-Chairmen, Mr. Pedro Desiderio Blandino Canto (Dominican Republic), Mr. Movses Abelian (Armenia) and Ms. Bonnie Miller (Canada), and a Rapporteur, Mr. N. Sivasubramanian (India), were elected by acclamation.

D. Adoption of the Agenda

7. At its first meeting, on 11 April, the Working Group adopted the following agenda:

1. Election of Officers.

2. Adoption of the agenda and organization of work.

3. Alleged cases of fraud in the United Nations: study of the possibility of the establishment of a new jurisdictional and procedural mechanism or of the extension of the mandates and improvement of the functioning of existing jurisdictional and procedural mechanisms.

4. Adoption of the report of the Ad Hoc Intergovernmental Working Group on its first session.

E. Organization of work

8. The Working Group had before it a conference room paper (A/AC.243/1994/CRP.1) containing a tentative schedule of work. The Working Group accepted that schedule in principle.

F. Documentation

9. The documents presented to the Working Group are listed in annex II [to be included in the final report].

III. SUBSTANTIVE MATTERS

10. Statements were made by members of the Working Group concerning the scope and nature of their mandate. In this connection the Working Group sought clarification from the Secretariat concerning the definition of fraud, its magnitude and the existing stages through which an alleged case of fraud would be submitted.

11. Many members of the Working Group stated that there was a need for additional information in the form of both written and oral reports. Representatives of certain bodies and offices were therefore invited to appear before the Working Group to provide clarification.

12. Members of the Working Group were of the view that external and internal audit should be kept separate as they fulfilled different roles. External audit

is an external oversight mechanism for the control of the United Nations by the General Assembly. It is a basic mechanism needed for the accountability of the Organization to the Assembly.

13. Several members of the Working Group stressed the need to have certain analyses provided, for example the magnitude of fraud cases in terms of both numbers and dollar value, and the ratio of cases strictly considered as emanating from a violation of the Financial Rules, such as the bidding and procurement procedures, to cases involving staff entitlements.

14. The Working Group concluded that those issues would have to be addressed at its second session. The Secretariat was therefore requested to provide relevant information, and where necessary to prepare documents for that purpose.

IV. ARRANGEMENTS FOR THE SECOND SESSION

A. Issues to be considered

15. The Working Group raised a number of issues which it decided to consider in detail at the second session. They included how to treat frauds from both within and outside the United Nations; internal control and disciplinary mechanisms; prevention of fraud; improvement of existing mechanisms and the possibility of establishing new ones; raising awareness and training of staff in the financial areas; and recovery, for example, enabling the Secretary-General to file cases against staff members before the Administrative Tribunal, and the waiver of immunity of staff to allow for prosecution before national courts. Accordingly the Working Group agreed upon the following provisional agenda for the second session:

1. Adoption of the agenda.

2. Magnitude of problems and frauds committed outside and inside the United Nations.

3. Prevention, detection and reporting: review of the adequacy of the existing procedures.

4. Review of the role, relationships and effectiveness of existing bodies.

5. Identification of areas requiring improvement, strengthening, and introduction of new procedures and mechanisms.

6. Recommendations.

B. Documentation

16. Members of the Working Group were encouraged to submit their views in writing to the Secretariat prior to the second session.

17. The Secretariat was requested to prepare analyses of fraud cases, and to make available any existing documents on the subject.

C. Dates for the next session

18. The Working Group agreed to hold its second session at United Nations Headquarters from 13 to 17 June 1994.

V. ADOPTION OF THE REPORT

19. At the 9th meeting, the Rapporteur introduced and orally revised the draft report of the Working Group on the work of its first session (A/AC.243/1994/L.4).

20. The Working Group then adopted the draft report as orally revised.

VI. CLOSURE OF THE SESSION

21. At the 9th meeting, the Chairman summed up the positive achievements of the first session and stressed the usefulness of the work done by the Working Group in determining the scope of its work and identifying the issues which must be addressed and the documentation necessary to enable it to proceed with its work.

22. The Chairman expressed his appreciation to the officers, the Secretariat and all those associated with the work of the session. He thanked all those present for their participation in the first session of the Ad Hoc Intergovernmental Working Group of Experts and declared the session closed.